

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1641 Use of Information Obtained by Automated License Plate Recognition System

SPONSOR(S): Snyder

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Padgett	Hall
2) Transportation & Modals Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

An automated license plate recognition system (ALPRS) is a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of license plates into computer-readable data. An ALPRS used by a law enforcement agency may be mounted on patrol cars, road signs, or traffic lights. Images captured by an ALPRS may include the exact time, date, speed and location of a captured vehicle, and may be stored or used in real-time to alert a law enforcement agency of a vehicle's location. Law enforcement agencies use the data collected by an ALPRS to compare captured license plate numbers against license plate numbers of stolen vehicles or vehicles driven by people wanted on criminal charges.

The Criminal and Juvenile Justice Information Systems Council within the Florida Department of Law Enforcement has issued uniform statewide guidelines for law enforcement agencies using an ALPRS. Law enforcement agencies are *encouraged*, but not required, to use such guidelines.

The Driver and Vehicle Information Database (DAVID), which is maintained by the Florida Department of Highway Safety and Motor Vehicles (DHSMV), is a multifaceted database that affords immediate retrieval of driver and motor vehicle information. Information contained in DAVID includes a person's driver license number, address, date of birth, Social Security number, and vehicle information. Such information is confidential and protected under the federal Driver's Privacy Protection Act (DPPA). DPPA restricts access to personal information contained in motor vehicle and driver license records with specified exceptions, such as a law enforcement agency acting in its official capacity to carry out its duties.

To access DAVID, a law enforcement agency is required to enter into a memorandum of understanding (MOU) with DHSMV. Generally, such an MOU requires a law enforcement agency to:

- Use information from DAVID for only authorized purposes;
- Ensure all information obtained from DAVID remains confidential;
- Limit access to DAVID to authorized users; and
- Annually certify the agency is complying with the MOU.

HB 1641 creates s. 316.0779, F.S., to require a law enforcement agency that uses an automated license plate recognition system to adopt a policy for the use of information obtained by such system that establishes rules, regulations, and standards that are no less stringent than rules, regulations, and standards established by the law enforcement agency for use of the DAVID system according to such agency's memorandum of understanding with DHSMV.

To the extent law enforcement agencies using an ALPRS are not complying with the standards required under the bill, the bill may have an indeterminate fiscal impact to such agencies related to implementing such standards and training programs.

The bill provides an effective date of July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Automated License Plate Recognition Systems

An automated license plate recognition system (ALPRS) is a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of license plates into computer-readable data.¹ An ALPRS used by a law enforcement agency may be mounted on patrol cars, road signs, or traffic lights.² Images captured by an ALPRS may include the exact time, date, speed and location of a captured vehicle, and may be stored or used in real-time to alert a law enforcement agency of a vehicle's location.³ Law enforcement agencies use the data collected by an ALPRS to compare captured license plate numbers against license plate numbers of stolen vehicles or vehicles driven by people wanted on criminal charges.⁴

ALPRS Guidelines

The Criminal and Juvenile Justice Information Systems Council (CJJIS) within the Florida Department of Law Enforcement (FDLE), has issued uniform statewide guidelines (Guidelines) for law enforcement agencies using an ALPRS.⁵ The Guidelines were designed to achieve the following objectives:

- Limiting information stored from an ALPRS image to information resulting from the license plate image capture, including the license plate number and the date and time of the image capture;
- Ensuring that a law enforcement agency establishes protocols for handling alerts generated by an ALPRS and that law enforcement officers respond to such alerts according to agency policy;
- Limiting the persons who may search stored ALPRS data to authorized persons acting in furtherance of an active criminal justice investigation with the safeguarding of individuals' privacy being of paramount concern; and
- Requiring ALPRS data to be stored and purged in a defined and secure manner.⁶

Law enforcement agencies are *encouraged*, but not required, to use such guidelines.

Public Records Exemption – ALPRS

The following information generated by an ALPRS that is held by an agency⁷ is confidential and exempt from disclosure as a public record:

- Images and data containing or providing personal identifying information obtained through the use of an ALPRS.
- Personal identifying information of an individual in data generated or resulting from images obtained through the use of an ALPRS.⁸

ALPRS information may be disclosed by or to a criminal justice agency in the performance of the criminal justice agency's official duties or to the individual to which the license plate is registered, unless the information is active criminal intelligence or criminal investigative information.⁹

¹ S. 316.0777(1)(c), F.S.

² National Conference of State Legislatures, *Automated License Plate Readers: State Statutes*, [Automated License Plate Readers: State Statutes \(ncsl.org\)](https://www.ncsl.org/legislative-statistics/automated-license-plate-readers) (last visited Mar. 17, 2023).

³ Florida Department of Law Enforcement, *Guidelines for the Use of Automated License Plate Readers*, <https://www.fdle.state.fl.us/CJJIS/Documents/CJJIS-Council-ALPR-Guidelines.aspx> (last visited Mar. 17, 2023).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Section 119.011, F.S., defines an agency as any "state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."

⁸ S. 316.0777(2), F.S.

Data Retention Period

Section 316.0778, F.S., requires the Department of State to consult with FDLE to establish a retention schedule for records containing data and images generated through the use of an ALPRS.¹⁰ The retention period for such information is prescribed by rule and requires license plate recognition records to be retained until obsolete, superseded, or their administrative value is lost, but for no longer than three years unless retention is otherwise required.¹¹

Driver and Vehicle Information Database

The Driver and Vehicle Information Database (DAVID), which is maintained by the Florida Department of Highway Safety and Motor Vehicles (DHSMV), is a multifaceted database that affords immediate retrieval of driver and motor vehicle information that is indispensable for law enforcement and criminal justice officials.¹² Information contained in DAVID includes a person's driver license number, address, date of birth, Social Security number, and vehicle information.¹³ Such information is confidential and protected under the federal Driver's Privacy Protection Act (DPPA).¹⁴ DPPA restricts access to personal information contained in motor vehicle and driver license records with specified exceptions, such as a law enforcement agency acting in its official capacity to carry out its duties.¹⁵

To access DAVID, a law enforcement agency is required to enter into a memorandum of understanding (MOU) with DHSMV. Generally, such an MOU requires a law enforcement agency to:

- Use information from DAVID for only authorized purposes;
- Ensure all information obtained from DAVID remains confidential;
- Limit access to DAVID to authorized users; and
- Annually certify the agency is complying with the MOU.¹⁶

Effect of Proposed Changes

HB 1641 creates s. 316.0779, F.S., to require a law enforcement agency that uses an automated license plate recognition system to adopt a policy for the use of information obtained by such system that establishes rules, regulations, and standards that are no less stringent than rules, regulations, and standards established by the law enforcement agency for use of the DAVID system according to such agency's memorandum of understanding with DHSMV.

The bill provides an effective date of July 1, 2023.

B. SECTION DIRECTORY:

Section 1: Creates s. 316.0779, F.S., relating to information obtained by automated license plate recognition systems; standards for use.

Section 2: Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

⁹ S. 316.0777(3), F.S.

¹⁰ S. 316.0778(2), F.S.

¹¹ R. 1B-24.003, F.A.C.

¹² Florida Department of Highway Safety and Motor Vehicles (FSHVM), *Driver and Vehicle Information Database*, <https://www.flhsmv.gov/courts-enforcement/david/> (last visited Mar. 17, 2023).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ FSHMV, *Driver Privacy Protection Act*, <https://www.flhsmv.gov/privacy-statement/driver-privacy-protectionact/#:~:text=DPPA%20restricts%20public%20access%20to,vehicle%20and%20driver%20license%20records>. (last visited Mar. 17, 2023).

¹⁶ Broward County, *Memorandum of Understanding – HSMV Data*, https://cragenda.broward.org/docs/2018/CCCM/20180228_560/26145_Exhibit%201%20-%20DAVID%20MOU.pdf (last visited Mar. 17, 2023).

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

To the extent law enforcement agencies using an ALPRS are not complying with the standards required under the bill, the bill may have an indeterminate fiscal impact to such agencies related to implementing such standards and training programs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES